

## Purpose

This policy is written to help employees within the Department of Transportation (UDOT) to understand and know the Department's position on unlawful harassment based on race, color, creed, national origin, sex (including sexual harassment), age disability or protected activity under the anti-discrimination statutes.

## Policy

The Department of Transportation prohibits and will not tolerate unlawful harassment in any form, subtle or otherwise, in any and every workplace, and will strive to eliminate unlawful harassment from taking place within the Department. Violators shall be subject to disciplinary action up to and including termination and/or referral for criminal prosecution. The Department holds all leaders responsible for eliminating unlawful harassment from their work area and educating subordinates on the effects of unlawful harassment.

Employees are encouraged to use the Department's procedure 05C-40d.1 for complaints of unlawful harassment, but may directly file with Anti-Discrimination or the EEOC.

Unlawful harassment complaints may be filed regardless of whether or not the behavior occurred on or off duty if it created a hostile work environment.

Leaders who knew or should have known that clearly offensive behavior was occurring on duty, or have been made aware of such behavior occurring off duty which creates a hostile work environment and did not take timely action to correct the situation shall be subject to corrective or disciplinary action.

Leaders who choose to have a personal relationship with subordinates are risking complaints of sexual harassment, sex discrimination, personal law suits and are putting the Department in a potential libel position. If allegations are made against a leader and found to be valid, the leader may not be indemnified under the Governmental Immunity Act, 63-30-36,37 and will be subject to disciplinary action up to and including termination.

Individuals affected by alleged unlawful harassment are encouraged, but shall not be required, to confront the accused harasser before filing a complaint.

The accused shall not contact the complainant regarding allegations of unlawful harassment once a complaint has been filed.

Employees should do the following when they feel they are being harassed:

1. Continue to report to work.
2. Verbalize disapproval and demand that the action cease.
3. Document the occurrences(s).
4. Identify any witnesses.
5. Complain officially.

No messages with derogatory or inflammatory remarks or images about an individual or group's race, color, creed, nation origin, sex, age and/or disability will be allowed in the work place or transmitted by any electronic method including Internet, e-mail, screen savers, cellular phones, pagers, etc.

Employees who are subject to a law suit resulting from an act as described above may not be indemnified under the Governmental Immunity Act, 63-30-36,37.

## **Background**

The Equal Employment Opportunity Commission (EEOC) has issued official guidelines which define unlawful harassment because of a persons race, color, creed, national origin, sex (including sexual harassment), age and/or disability as forms of discrimination under Title VII of the Civil Rights Act of 1964 and other Federal or State civil rights legislation. This policy is written in compliance with State and federal regulations, with the Department of Human Resource Management Rules, and good business practices.

## **Definitions**

Sexual harassment: Any behavior or conduct of a sexual nature which is unwelcome, and pervasive, demeaning, ridiculing, derisive or coercive and results in a hostile, abusive or intimidating work environment

- a. Level One: sex role stereotyping
- b. Level Two: targeted gender harassment/discrimination
- c. Level Three: targeted or individual harassment
- d. Level Four: criminal touching of another's body parts or taking indecent liberties with another.

Hostile Work Environment: A work environment or work-related situation where an individual suffers physical or emotional stress due to the unwelcome behavior of another individual which is motivated by a person's race, color, creed, nation origin, sex, age, disability and/or protected activity under the anti-discrimination statutes.

Quid Pro Quo: Any behavior which requires an employee to submit to sexual conduct in return for increased employment benefits or under threat of adverse employment repercussions.

Unlawful Harassment: Any behavior or conduct of an unlawful nature based on race, creed, national origin, color, sex, age, disability, or protected activity under the anti-discrimination statutes that is unwelcome, pervasive, demeaning, derisive or coercive and results in a hostile, abusive or intimidating work environment or tangible employment action.